

Introduction

The Nature of Appearance Bias and Its Relevance to Crime

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This is a story of evolution, or at least I hope it is. In my previous work, I wondered whether appearance bias – the last and least considered form of discrimination – will go the way of other biases (sexism, racism, homophobia, anti-Semitism, ableism, etc.). True, none of these “isms” are completely gone and may never be. Movement toward social equality has been a slow and incremental process eventually culminating in a broadening recognition of equal rights. The same may be true of appearance bias.

The consequences of broad-based appearance bias as it occurs in general society are dire enough, yet perhaps more dire are the consequences of appearance bias in this more restricted setting of crime control and criminal victimization. This text hopes to bring into stark relief the manner in which justice is denied, lives are ruined, and people die because of the judgments made about offenders’ and victims’ physical appearance.

This book applies the same principles as my earlier publications on appearance bias (e.g., 2007, 2008a), which focused on how society discriminates for and against humans with particular physical features. In the present endeavor, however, my contributing authors and I are addressing appearance bias as it operates in the crime control context. In general and in crime control, appearance bias is strongly related to social power, particularly socioeconomic status, with its effects more keenly observed in matters of crime control.

GENERAL DISCUSSION

It is well known that humans respond to other humans’ physical appearance, but this phenomenon is not intricately or broadly understood.

Indeed, we usually think of it, if we think of it at all, as a “given”; that, yes, we do judge people on their appearance but that this judgment is normal and acceptable.

I began researching appearance bias in 1999 as it is experienced in the United States and worldwide. Among the themes that emerged is vulnerability to forces that make or break us in the course of our daily lives, be those events blocked social opportunities such as education, employment, romance and marriage, social networks, and health care or be those events decisions made about us by a crime control system.

Appearance bias is an important social force because major decisions are made about people depending on their appearance; we are employed or not, well-educated or not, invited into club memberships or not, married or not, and receive health care or not at least partly or entirely because of our appearance. These decisions affect our lives in irreversible ways to the point of determining how long we live and how well we live. Generally, attractive people are granted opportunities that unattractive and plain people are refused. Unattractive and plain people are at a disadvantage insofar as having some of life’s doors automatically closed in the pursuit of well-being and happiness. This form of prejudice, as is true for other forms of prejudice, can happen overtly or subtly.

People, of course, vary in terms of their attractiveness; most people are plain or ordinary looking, some are distinctly attractive, and some are unattractive. One of the first questions raised when a discussion of appearance bias is brought forward is agreement about “beauty” and non-beauty. It is said that beauty is in the eye of the beholder. If so, beholders agree on what constitutes good looks. There is, in fact, quite a lot of consensus regarding beauty standards: attractiveness and unattractiveness are agreed upon cross-culturally and across time. The standards of beauty are mainly White, Northern European standards (blonde hair, light features) with extra points given to the tall and slim. “Cross-cultural studies have been done with people in Australia, England, China, India, Japan, Korea, Scotland, and the United States. All show that there is significant agreement among people of different races, and different cultures about which faces they consider beautiful. . .” (Etcoff, 1999: 138; see also Berry, 2011). Not only is beauty racially informed, it is not objective or neutral. “Although the overt racial standards of beauty are often unspoken, people across ethnic groups and class levels tend to agree about who possesses beauty and who does not” (Hunter, 2004: 30). Margaret Hunter’s bringing up class levels is supremely important to this text; race is of course significant to judgments about attractiveness *and* about

The Nature of Appearance Bias and Its Relevance to Crime 3

criminality but so is the oft-overlooked trait of socioeconomic status (SES). SES determines more than we commonly realize about our appearance, partly because the financially better off attract and mate with attractive people but probably more so because, without financial support, we cannot afford good skin care, dental care, healthy diets, and expensive grooming practices.

In other words, our appearance is largely beyond our control due to economic status and genetics, yet we add insult to injury when we realize that we are judged by the same, often-unreachable standards as those with ideal looks. While cross-culturally, we agree on the definition of beauty with the standards being mostly the same across race/ethnicity and around the globe, this poses a problem for those who cannot meet such rigid standards to be tall, thin, blonde, White, with even features, and no sign of disability or health issues. It poses such a problem that some who cannot reach these agreed-upon social standards will go to extraordinary lengths to alter their appearance in order that they may become well-employed, gain an education, get suitably married, or be admitted to coveted social circles. Think surgery (eyelid surgery to round out the Asian eye, breast implants, leg-lengthening, etc.) and less dramatic alterations (skin lightening, hair straightening, etc.). Often these alterations are not for beautification but are race-denying practices. There is nothing inherently unattractive about nonwhite racial features but, because the standards are what they are and in order to be socially accepted and socially desired, some will engage in nose tipping, lip flattening, eyelid rounding, and the like (Berry, 2007, 2008a).

Subjectivity and the Meaning of Attractiveness

Some people have a less desirable or less socially acceptable appearance than others. But what do these terms (desirable and acceptable) mean? Some of the variables I address herein to describe attractiveness and unattractiveness have nothing to do with objective measures of attractiveness, to the extent that objective measures exist. Among the subjective features would be the aforementioned racialized features. (Note that the word “racialized” is understood to mean nonwhite. This is quizzical in itself since very White features, such as blonde hair and blue eyes, could be taken to mean “racialized” in a, for example, Nordic sense.) Yes, it is agreed upon even among racial minorities that the standard for beauty is White Northern European. Yet, at its very basis, the question remains as to what precisely is unacceptable about Asian features, Indigenous

features, and Black features? I can, and anyone can, say that racialized features per se are not attractive or unattractive; they are just racialized features. However, these variables are nevertheless markers that tell the social audience something, falsely, about the people who possess these markers. It is important to bear in mind throughout this book that these immediately visual signs (physical appearance) are exactly that: *signs*. The interpretation of those signs is the significant factor in the phenomenon of appearance bias.

Agreement about attractiveness has increased as time progressed, with the best possible explanation for this growing consensus being globalization of visual images. Through television, movies, magazines, billboards, and other visual media, the world's standards of acceptable and unacceptable looks are homogenized because we, internationally, are presented with a restricted image of what is beautiful. Media of all types can firmly embed already held views; media can also change views by influencing what we think of as attractive.

Media depictions of various appearance traits as attractive or unattractive can serve as microaggressions and can thus perpetuate and solidify appearance bias, with microaggressions serving as subtle or unintentional forms of offense commonly aimed at minorities (see Sue, 2010; also see further comments below in this chapter). The worldwide media depiction of the ideal type of beauty as tall, thin, even-featured Caucasian is itself a microaggression since, by its exclusion of people who don't fit this appearance pattern, it is a rejection.

Appearance bias can be thought of and experienced as microaggressions, but appearance bias can also be obvious and intended aggressions as in the overt signals denigrating those with appearance challenges, such as license plate holders declaring "No Fat Chicks." These standards, against which we are all judged and which are perpetuated via media, are unlikely to change soon. This means that, for nonwhites in a world that prizes Caucasian features, socially desirable features are beyond reach. But no more beyond reach than other physical features that are mainly a matter of luck (genetic or socioeconomic), such as good dentition, clear complexions, thick hair, evenly placed facial features, significant height, moderate to low body fat, and an absence of obvious disabilities.

Facial symmetry is important, so important that even a small variation in symmetry is sufficient to make one's face deemed to be unattractive. There are mathematical formulae that describe how far apart facial features should be and how large each feature should be. Too much or too little space between the upper lip and the end of the nose, eyes spaced

The Nature of Appearance Bias and Its Relevance to Crime 5

too far apart or too closely together, a forehead too broad or too narrow, or a jaw too jutting or too receding can make a person looks-challenged. Think about this. This issue of facial symmetry is very strict. And now, think about this question: what is meant by “too” narrow, broad, close-together, far-apart, large or small? Yet, oddly, these dimensions are agreed upon within cultures and across cultures.

In short, while we may hope for minutely defined designations of attractiveness, the plain fact is that attractiveness relies on the principles above. We know attractiveness when we see it.

Much of the literature on beauty standards really pertains to indicators of youth and health. Youth and health are interrelated albeit not entirely. Healthy, youthful specimens are sought after for mating, for friendship, for employment, and for all manner of social networking. Good teeth, good skin, a free-swinging gait, an upright posture, thick hair (etc.) all speak to fecundity and to physical capability (see, e.g., Etcoff, 1999 for her work on “survival of the prettiest”). Such a person is able to mate and will give us no trouble in whatever capacity we may need them regarding work or the simple and easy enjoyment of life. However, sometimes, perhaps usually, the attraction to healthy and youthful-looking people is sex (as in a desire for sexual encounters) rather than reproductive capabilities. In the non-crime world, gay men prefer young, good-looking men as their partners. Young, good-looking, slightly built gay men are also more desirable as sex crime targets and thus criminally victimized more commonly than older and larger gay men (Felson, Cundiff, & Painter-Davis, 2012).

Obviously, appearance is complicatedly related to a number of demographic variables: gender, age, race/ethnicity, and socioeconomic status. For example, women are held to different standards than men, as clearly seen in the harsher treatment of obese women compared to obese men (Bordo, 1995; Braziel & LeBesco, 2001; Wann, 1998). Appearance is also related to nondemographic variables such as sexual orientation, as we will see in this text. Finally, advanced societies are beginning to recognize the disadvantages faced by the poor, the elderly, the disabled, the migrant, the ethnic minority, the non-heterosexual, and all others who share a disvalued trait. It would be helpful if and when societies recognize these disadvantages as interfacing with physical appearance.

THE NEW ANALYSIS: CRIME AND PHYSICAL APPEARANCE

The physical attributes that will be discussed in this text refer to vulnerability to being targeted as criminal offenders and vulnerability to

victimization; both forms of vulnerability can refer to bias against people because of their physical appearance. In the broader, noncrime world, for instance, disability reduces social opportunities (access to buildings, denial of employment, poor health care, romance, etc.); at the same time, disability can make us vulnerable to crime. These appearance vulnerabilities – be they racial, gender, age, attractiveness, LGBTQ identity, attire, a “terrorist” appearance, etc. – are the same or similar, in process and in experience, as appearance vulnerabilities occurring in the subset crime world for suspected offenders and for victims of crime. To say that these appearance vulnerabilities are “the same or similar” in both populations is likely true, but to say that these vulnerabilities are *amplified* for the subset crime world may also be true since the appearance-challenged are a disadvantaged population to begin with.

There is very little published on this phenomenon, but I will advance the notion that appearance plays a far more salient role in criminal suspicion, conviction, sentencing, and victimization than has previously been considered. Myths will be dispelled, as I situate the discussion of appearance bias in the centuries-old but limited historical context of criminological interest in physical appearance and crime.

There is much to be said and, hopefully, this text will not disappoint in our search for understanding of the place of physical appearance in the crime control process. There are a few twists and turns; for example, given that attractive people are ordinarily greatly advantaged, one would think that would apply in crime control also. Usually this is the case but, as the reader will see, it is not necessarily always the case.

What We Need to Know

At rock bottom, one of the main questions that we, as sociologists and criminologists, hope to answer is how to most effectively deal with crime and criminal victimization; we have long strived to know what works and what doesn't work in crime control. Important elements of effective crime control are apprehending people who have indeed committed crime and preventing crime from occurring in the first place. Thus we aim to reduce crime and criminal victimization.

To that end, over the centuries, our efforts have primarily centered on determining causality with an eye toward preventive measures. Neglected in this search have been misperceptions about the identity of criminals and crime victims based on their physical appearance.

The Nature of Appearance Bias and Its Relevance to Crime 7

The question of how physical appearance influences crime is *intricate* and *important yet under-studied*. It is *intricate* in that physical features vary infinitely (body size, skin color, hair texture, disabilities, facial feature organization, etc.) while social perception of these physical features varies little cross-culturally and intra-culturally (Berry, 2007, 2008). As a public, we attribute personality, attitudinal, and behavioral traits to others depending upon their appearance: those attributions are commonly applied in similar ways, such as attributing laziness to heavy people, niceness to pretty people, capability to tall people, and suspected criminality to nonwhite people.

It is fairly well-documented that attractive people are more likely to get away with criminal offenses while unattractive people are more likely to be arrested, convicted, and sentenced harshly (Etcoff, 1999; Katz, 1995; Waldman, 2013). It is less well-documented that unattractive people are more likely to be victimized, and there are caveats to this general finding. For instance, teenagers, particularly teen girls who are bullied are not always unattractive but rather can be quite attractive, and their attractiveness is the reason for their being bullied. Mainly, however, the bullied are picked on because of a socially undesirable physical appearance, such as obesity, or for a gender-nonconforming appearance (Pascoe, 2012). Nearly always the actual bullying is obvious, as evidenced by threats, verbal assaults, and physical abuse, but the reason (being nonwhite, disabled, obese, etc.) can vary.

The question is *important* because major decisions about employment, health care, educational opportunities, etc. are made about people depending on appearance; these decisions affect our lives in long-term if not permanent ways. Myriad judgments are made about us based on what we look like, including, and this is my argument here, judgments about criminal involvement.

The relationship between appearance and crime is relatively *unstudied*, and the reason for that is somewhat puzzling given the importance of appearance in our lives and upon our social opportunities. The absence of scientific attention to this topic might be explained as (1) we assume that appearance is a “given,” randomly assigned by the whimsy of nature, unchangeable, and thus ineligible as a target for study; (2) some appearance traits are viewed as the negatively judged person’s own fault (notably poor dentition, obesity), and thus the appearance-challenged and their “faults” are not worthy of scientific consideration; and (3) criminals and crime victims are often already considered to be second-class citizens, unattractive ones more so, thus they are unattended scientifically and popularly.

However, appearance is a highly significant factor in understanding crime and criminal victimization partly because it does not have a complete overlap with behavior. That is, while there is some evidence that physical appearance may influence a person's career choice, to engage in a legitimate career versus a criminal career (see Chapter 2 by Teasdale and Berry in this text), probably most people who are plain or unattractive do not choose to engage in crime. Like race, poverty, immigration status, and the usual variables we study in relation to crime, appearance does not necessarily channel a person into crime or victimization but it does, like race and other demographic factors, very much have to do with public and criminal justice *responses* to crime and victimization. In short, unattractive people, like people with racial minority characteristics, may be more likely to be arrested, convicted, and severely sentenced than attractive and White people. And unattractive people, like people with minority characteristics, may be more likely to be victimized, to be bullied, and to not receive fair treatment compared to attractive and majority people.

Let me state the obvious that criminal behavior officially means crime as defined by and acted upon by responders to the supposed crime. This seems simple enough, and we know that a range of characteristics of alleged offenders and their environments heavily influence whether and what type of law enforcement will result. An obvious example would be the recent tumult over racially targeted stopping-and-frisking, “driving while Black,” and the “papers-please” policies that are leveled against ethnic minorities and suspected undocumented immigrants based on skin color, attire, and, less so, language.

Microaggression, mentioned earlier, refers to subtle and unintentional insulting behavior. In the case of appearance bias, these non-obvious insults might be experienced as negative remarks about one's looks as when remarking that an overweight person has “such a pretty face” or that a Black person would look better if she or he underwent hair-straightening or lip-thinning. Microaggressions, moreover, are associated with newly considered “victimhood cultures” in which victimization for belonging to a particular category (racial, gender, disability, LGBTQ status, etc.) occurs, with victimhood taking on a more severe meaning in the context of crime control. While there has been some question about the rigor of microaggression research (see, e.g., Sue, 2010), it is a viable concept and a well-known phenomenon and must be addressed here.

The Nature of Appearance Bias and Its Relevance to Crime 9

Its relevance to the appearance-and-crime context as it is discussed in this text requires some analysis; to wit, one might argue that racial and other profiling as evidenced in patrolling and other crime control activities can be defined as microaggressions since, one might argue, crime controllers are making biased but better-to-be-safe-than-sorry assumptions about categories of people. However, given the possible outcomes of such profiling, such as legally baseless detention of transvestites or police killings of unarmed Black citizens, one might question whether criminal justice interventions can ever be subtle or “micro.” While microaggressions occur in classrooms, casual conversation, debates, and other non-crime contexts, aggressive appearance bias as it occurs in the crime context is often if not always overt aggression. At least to my mind, the question of whether offenses against subjects of appearance bias, as crime victims or as crime suspects, leans toward a macroaggression versus a microaggression interpretation.

Assuredly, a global preference for White European features is racist. Nonetheless, the public, even the minority public, make assumptions about people of color that are not made of Caucasians. We see it in a recent publication by Dabney, Teasdale, Ishoy, Gann, and Berry (2017), my comments to Part II, and we see it more pointedly in Lorenzo Boyd’s and Kimberley Conway Dumpson’s work on Black Lives Matter (Chapter 4). The work by Dabney et al. clearly demonstrates that police judgments are greatly influenced by racialized features, with Black-centric hairstyles resulting in disparate decisions to arrest. The chapter by Boyd and Dumpson shows that Black lives do not matter, at least not so much as White lives.

While it can be said that criminologists have attended to physical features of criminals, much of this earlier work is limited. For instance, in very early historical works, as I will describe below, criminologists focused on atavistic facial and bodily features as well as phrenology (the study of skull shape and smoothness). In the twentieth century, we paid little attention to offenders’ appearance with a few notable exceptions such as studies of somatypes (body types) and their relationship to juvenile delinquency, and as reanalyzed by Sampson and Laub (1997). While those findings were useful, they are restricted in utility since we have yet to understand the enormous array of physical appearance features that affect the probability of engaging in crime; the probability of being suspected, convicted, and sentenced in criminal cases; and the probability of being viewed as a blameless or a blameworthy victim. This text moves us toward that goal.

The Crime Control Process

This book illustrates the process by which people, victims and offenders, are judged by their looks as they journey through the crime control process. From the moment that the police or the public views a suspect as a suspect, to the next stage of arrest, to the following stage of the booking photo (mug shot), and on to the trial (where prospective jurors can be asked if they believe they can “tell by looking” if a defendant is guilty or innocent), conviction, and sentencing, we find that physical appearance plays a role.

Not unexpectedly, the victims, suspects, and known offenders described herein represent a wide range of criminally involved people. Importantly, victims and offenders often overlap as, for instance, in the case of women prisoners, most of whom have been assaulted in their pre-prison lives (see Chapter 6 by Brenda Chaney). Victims will be discussed throughout this book with special attention paid to their appearance as it reflects on judgments about their blameworthiness in Chapter 7 by Jennifer Wareham, Brenda Sims Blackwell, Denise Paquette Boots, and me.

Moreover, the criminal justice process itself can negatively affect the appearance of victims and offenders, as we will see in the editorial comments to Part III and in the Conclusion (Chapter 15). I have described this biased treatment of the looks-challenged as twice- (or thrice- or multiply-) victimized: they have had their appearance ruined by victimization and then are judged harshly because of their altered appearance. They may be held blameworthy as victims, and they may be more likely convicted and sentenced harshly because their features have been destroyed. To make things more complicated still, appearance can be damaged, such as by losing one’s teeth due to abuse or poverty, and appearance can be regained, as when one’s teeth are restored via dental care while incarcerated. In this unexpected way, people’s appearance can improve with incarceration. The released prisoners’ appearance can affect their post-release success.

This analysis also takes into account the range of crime control actors involved in making judgments about suspects and victims. They include the medical profession (who determine, through forensic medical examinations whether someone has been assaulted, with darker skin showing abrasions and bruising less than lighter skin), the public who report crime, police, the members of the courtroom (juries, judges, attorneys), university students, and others. Interestingly, the appearance traits of the judges can and do affect the crime control process, as found in comparing a militaristic police presence versus a less-heavily-armed police